IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

R.S.A. No. 5958 of 2003
Date of decision February 5, 2007

Rakesh Kumar Jain

.....Appellant

Versus

The Punjab State Electricity Board and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present:- Sh. Pawan Kumar, Advocate
for the appellant.

Sh. Vikas Mohan Gupta, Advocate
for the respondents.

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Viney Mittal, J (Oral

The plaintiff is in second appeal. He has challenged the judgment and decree of the first appellate Court whereby on a appeal filed by the defendants, the said judgment and decree of the trial Court were set aside and suit of the plaintiff was dismissed.

The suit for declaration filed by the plaintiff challenging the order dated October 27, 1997 passed by Dispute Settlement Committee and memo dated May 5, 1998 dismissing the appeal, was decreed by the trial Court vide judgment and decree dated May 7, 2003.

The defendants took up the matter in an appeal.

The learned District Judge relied upon the judgment of the Apex Court in **Punjab State Electricity Board Vs. Ashwani Kumar** 1997 Supplement Civil Court Cases 1 (SC) and held that the jurisdiction of the Civil Court was barred.

Consequently, the judgment and decree of the trial Court were set aside and the suit of the plaintiff was dismissed.

Sh. Pawan Kumar, learned counsel appearing for the appellant has relied upon a Full Bench Judgment of this Court in **Ranbaxy Labortaries Vs. Punjab State Electricity Board, Patiala and another** AIR 2004 Punjab and Haryana 137. On that basis, the learned counsel maintains that the jurisdiction of the Civil Court could not be held to be barred. Sh. Vikas Mohan Gupta, learned counsel appearing for the respondent very fairly states that in view of the law laid down in **Ranbaxy Labortaries** (supra), the jurisdiction of the Civil Court could not be treated to be barred.

Whether the jurisdiction of the Civil Court is barred on not is a substantial question of law arising in the present appeal.

Keeping in view the facts and circumstances of the case and in view of the law laid down in **Ranbaxy Labortaries** (supra), the jurisdiction of the Civil Court cannot be held to be barred and therefore, the aforesaid substantial question is answered in favour of the appellant.

Consequently, the present appeal is allowed. The judgment and decree of the first appellate Court are set aside. As a result thereof, the appeal filed by the defendants is restored back to its original number before the appellate Court. The first appellate Court shall decide the appeal on merits of the controversy.

The first appellate Court shall dispose of the main appeal within a period of six months from the date of appearance of the parties.

The parties through their counsel are directed to appear

before the Additional District Judge, Sangrur on April 4, 2007.

A copy of the order be given dasti on payment of usual charges.

(VINEY MITTAL)
JUDGE

February 5, 2007
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